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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,719	12/22/2000	Ralph L. Anderson	03768/9382 (15031) KCX-22	1176

7590

07/01/2003

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

9

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-9

Office Action Summary

Application No.

09/746719

Applicant(s)

Anderson et al.

Examiner

John Guarriello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1/31/2003, 3/31/2003
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 25-34 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 25-34 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 6
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 45
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Election/Restriction

15. The Examiner acknowledges the affirmation of the Restriction to Group II, claims 24-34 with traverse. Since there are no arguments for traversal, the Restriction is made final for reasons of record. The Examiner acknowledges the cancellation of claim 24, and claims 1-23 with claim 35 as the non-elected claims.

The Examiner further acknowledges papers # 7 and 8, the extension of time and the amendment of 3/31/2003 together with paper # 6, the IDS of 1/31/2003.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

17. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer

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an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Fellows 4,678,704.

Rejection is maintained substantially as in paper # 5 of 9/30/2002.

Applicant's arguments regarding the water-swellaable polymer have been considered but it is the Examiner's position that the limitations that are argued by applicant are not in the claims of the claimed invention. Furthermore,

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claim 25 states "an absorbent article containing an active chemical comprising", it is the Examiner's position that this is interpreted to mean an **absorbent article containing** (comprising) **and comprising**:. Furthermore, since the "liquid" in the claim is undefined, and the liquid and dyes are not clearly specified as to the identity of the components, the argument of the dissolving rate is not considered persuasive. Moreover, Fellows does describe a water swellable polymer, the starches (a polymeric moiety) thicken, (column 2, lines 42-43) even though it is not stated, Fellows implies **thickening of a polymer moiety**.

Fellows describes an impregnated fabric to which an indicator dye has been applied, (see abstract). Fellows describes the fabric may be woven, on nonwoven which can be a wiping cloth, (see abstract, column 1, lines 5-10; lines 36-51). Fellows describes disinfectant which can be activated, (column 2, lines 22-34). Fellows describes cationic starches (corresponding to swellable polymer) which can **thicken or swell**, (column 2, lines 39-45). Fellows describes additives can be added, (column 2, lines 1-6). It is the

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Examiner's position that Fellows still describes the essential limitations of the claimed invention.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2 211 092 in view of Dehnel 4,392,908.

Rejection is maintained substantially as in paper # 5 of 1/31/2003.

Applicant's arguments regarding the dye component dissolving faster than the active component have been considered, but it is the Examiner's position that there is no specificity of dye, active chemical, and, thus as noted above in paragraph # 18, the claimed invention would still be obvious to one of ordinary skill in the art.

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GB'092 describes a wipe with a flexible substrate which a water insoluble active agent is added with an indicator dye, (see abstract). GB'092 describes flexible substrates like wipes, cloths, woven and nonwoven fabrics, (page 1, lines 13-19). GB'092 describes the indicator dye to the substrate, (page 2, lines 1-6; lines 21-32). GB'092 describes the flexible substrates as fibers, (page 3, lines 13-18). GB'092 is silent about a water swellable polymer particles.

Dehnel describes a water absorbent article with water swellable material such polymer particles, (column 1, lines 4-11; column 2, lines 38-44; lines 51-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the water swellable polymer of Dehnel in the fabric of GB'092 motivated with the expectation that their would be an improvement absorbence of the absorbent article.

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The

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fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 18, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700